The Southern PATRIOT

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18 Southern Lawyers Sign SCEF Brief In Sweatt Case

Eighteen Southern lawyers have signed a brief to be presented before the U. S. Supreme Court in support of a Negro law student suing for admission to the law school of the University of Texas.

The brief, filed in behalf of the Southern Conference Educational Fund, attacks the principle of "separate but equal" facilities in education as involved in the case of Herman Sweatt, who is challenging the right of the state of Texas to force him to attend a segregated Negro law school. The case is scheduled to be heard January 30th.

Signed by lawyers representing all 13 Southern states, the brief denounces educational segregation as being equally harmful to all races involved, declaring, "White law students who become lawyers in the South do not live in a world populated only by whites. No lawyer of general practice in the South can avoid, and few would wish to avoid, having Negro clients.

"The lawyer who has been educated in a segregated law school must inevitably find the attitudes ingrained in him by that segregation carried over into his practice, with consequent embarrassment, failure to adequately represent the interests of his client, tension between lawyer and client and other more subtle pitfalls.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1949

No. 44

HERMAN MARION SWEATT, Petitioner

versus

THEOPHILUS SHICKEL PAINTER, ET AL

On Writ of Certiorari to the Supreme Court of the State of Texas.

MOTION OF THE SOUTHERN CONFERENCE EDUCATIONAL FUND, INC. TO FILE BRIEF AS AMICUS CURIAE IN THE ABOVE CASE AND BRIEF IN BEHALF OF PETITIONER.

ARTHUR J. MANDELL, Texas
JO DRAKE ARRINGTON, Mississippi
PAUL E. BRYAN, Georgia
JOHN M. COE, Florida
IRVING FERMAN, Louisiana
HENRY H. FOSTER, JR., Oklahoma
MITCHELL FRANKLIN, Louisiana
OLIVER W. HILL, Virginia
ENGLISH LINDSEY, Mississippi
STEPHEN NETTLES, South Carolina
REGINALD PARKER, Arkansas
MOSS A. PLUNKETT, Virginia
BEN N. RAMEY, Texas
ARTHUR D. SHORES, Alabama
JORDON STOKES III, Tennessee
ATHOL LEE TAYLOR, Kentucky
A. P. TUREAUD, Louisiana
M. A. WRIGHT, North Carolina

Court decisions tolerating segregation, are, the brief states, based on the belief that "the South is psychologically and philosophically so committed to the idea of segregation that no change, however small, can be made . . . and therefore some form of words must be found which will allow this denial of democracy to be reconciled with the fundamental principles of democracy.

"The doctrine of separate equality is that incantation and it has been so deeply imbedded into our judicial decisions as to acquire a mystic significance. As a practical matter, it has not been, and can never be, realized; legally it has no basis.

"The basic idea from which flows the necessity for the intonation of the formula 'separate-but-equal' is that segregation is so firmly established in the mores of Southerners that any change, however small, is too large to be absorbed peacefully. The theory is that if the dominant white race wants to segregate (and, says the argument, it does!) then the only inquiry allowable is whether equality has been given within the framework of segregation."

This doctrine has been repudiated by the teachers in Southern colleges and universities, the brief asserts, citing the results of a poll conducted recently by the Southern Conference Educational Fund. In this poll ballots were mailed to 15,000 teachers in 181 colleges and universities in 14 Southern states. Of the 3,422 replies, 70 per cent were in favor of an immediate end to segregation in graduate and professional schools.

Those signing the brief were: Arthur J. Mandell, Houston, Tex.; Jo Drake Arrington, Gulfport, Miss.; Paul E. Bryan, Atlanta, Ga.; John M. Coe, Pensacola, Fla.; Irving Ferman, New Orleans, La.; Henry H. Foster, Jr., Norman, Okla.; Mitchell Franklin, New Orleans, La.; Oliver W. Hill, Richmond, Va.; English Lindsey, Gulfport, Miss.; Stephen Nettles, Greenville, S. C.; Reginald Parker, Fayetteville, Ark.; Moss A. Plunkett, Roanoke, Va.; Ben N. Ramey, Houston, Tex.; Arthur D. Shores, Birmingham, Ala.; Jordon Stokes III, Nashville, Tenn.; Athol Lee Taylor, Louisville, Ky.; A. P. Tureaud, New Orleans, La.; and M. A. Wright, Linville Falls, N. C.

IS GRADUALISM EFFECTIVE---OR NECESSARY?

By AUBREY WILLIAMS

It is a widely held thesis in the South today among people of good will, both white and colored, that the most effective approach to making headway in the field of race relations is through the gradualist method. Indeed, they hold, it is the only approach.

That this belief is widely held is evident from the number of adherents and practicioners to be found everywhere and among both races.

The thinking which underlies this school of thought is fully known to us.

For example, we only have to examine the thinking as expressed in words and acts of leaders from both groups in accepting and cooperating with the Southern Regional Education plan—the Southern Governors Regional Education Plan, as it is more correctly known and called in the press of the South.

It is a commonly known fact that this plan of regional professional schools for the South originally suggested to meet the needs of an impoverished South, was seized upon by the Governors of certain Southern states—most prominent of whom were men notorious for their white supremacy attitudes, such as Gov. Fielding Wright of Mississippi, ex-Gov. Millard Caldwell of Florida, and Gov. Strom Thurmond of South Carolina—as a way of getting around the Supreme Court's decisions requiring states to provide equal facilities for all in graduate and professional education. In plain language, the plan was seized upon as a means of maintaining a segregated system of graduate and professional education.

Yet in spite of this obvious intent, educators of both races have joined with these governors in carrying out this proposal. These educators must know that, in spite of all the window dressing and large promises, this plan—if it can be made to work—will deal a body blow to the gains now being made in all parts of the South in breaking down segregation in colleges and institutions of higher learning and will set back the fight against segregation many years.

In fairness to those educators and laymen who support them, we should seek to understand, though we cannot accept, their reasoning for such cooperation.

Without much doubt, the financial foundation officials who are supplying the funds for the secretariat which is staffing the Regional Control Board feel that the regional idea of professional schools is a sound idea economically and educationally, and that the question of segregation is another problem, a problem with which they are not in this particular project primarily concerned.

Negro educators, who are going along with the plan, are probably no more blameworthy than white educators doing the same.

In fact, speaking as a white man, I find the white educators more blameworthy. They have it within their power to put up what could be a decisive fight against this proposal, whereas I doubt the same can be held to be true of the Negro educators.

Let us take another example. At the recent meeting of the Young Democrats at Chattanooga, a group

of young Democrats from Alabama attended this meeting. Among this group there are many of good will and decent impulses. They deeply believe in the democratic way of life and that means for them the inclusion of all people, regardless of one's race or religion.

However, when they got to Chattanooga, they were confronted with the against the Administration's Civil Rights proposals. They chose to take a stand against these proposals.

None of these young men of whom I speak will admit either to himself or to anyone else that he is taking a stand for or against Civil Rights per se for minority people. They did what they did in opposing the Civil Rights proposals because of the practical exigencies of the political situation in Alabama today.

We must be fair with these men in this sort of a situation. They must face this situation pretty much alone. We must recognize the press will not even give them a fair break. They have visions of their pictures being run with headlines, "So and So Joins Civil Disturbers" and then forever after never mention their names without saying, "who came out in favor of Truman's Civil Rights . . ." They frankly face a future in which the worst of the press will point at them as enemies of Southern people, and the best will write them off as political suicides.

Still there remains the question: Is the only way you can beat the Dixiecrats is to reduce the difference between their stand and our stand to an indistinguishable likeness?

There is no doubt but that they would have narrowed their support and made their fight against the Dixiecrats more difficult if they had chosen to support the Civil Rights proposals. But that it would have been an act of political suicide I do not believe for a moment. In fact, the way things are moving in Alabama today, there is as much evidence to support the thesis that by taking a stand against Civil Rights these young men wrote a chapter which will long plague them if they stay in politics, as there is that they would have written finis to their political careers if they had favored the proposals.

Where I differ with these men is in the degree they will reduce their effectiveness in fighting for the things they really want and believe in. It is precisely on that point that I want to join the issue. Does gradualism—accommodation—work? The answer of its apologist is to point to the gains which have been made in physical plant for the Negro. They point to the fine schools

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THE SOUTHERN CONFERENCE EDUCATIONAL FUND, INC.

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now to be found, to the increased earnings of the Negro, to the improved train coaches available for Negroes, etc.

I submit that, as desirable as it is that Negro children have adequate and modern train coaches, etc., in terms of a strong and healthy democracy—one capable of surviving with freedoms and liberties—these things are not really very important. What is important is when there is a school, it shall be run on a democratic equalitarian basis.

It is not important really what sort of coat a man wears, what sort of house he lives in, what sort of paper a text is printed on. What is important is what is in the text, what is taught.

These fine things turn and mock a democratic society. They become a reproach in the finely built churches.

We need to re-examine our measure of worth and re-evaluate the essentials of a democratic society. This examination must be in terms of ascertaining what will really count in giving those who are fighting for the truly democratic way of life more strength and greater power.

We need to take some chances in behalf of decency. I think we need to test how far we can go and still survive. We need to set up advance positions, and make a try at supporting them. We need to believe a little more in the decency of the common man. One of the obligations of leadership is to lead in behalf of socially and morally desirable goals.

This is an abridgement of a speech delivered by Mr. Williams, president of the Southern Conference Educational Fund, Inc., to the Alpha Phi Alpha fraternity at the Wheat Street Baptist Church in Atlanta, Ga., December 28, 1949.

A thorough overhaul of Virginia civil rights laws will be proposed at the current session of that state's general assembly.

Delegate Armistead L. Boothe of Alexandria has announced his intentions to introduce bills to:

1. Repeal state segregation laws affecting all forms of transportation.

2. Establish a Virginia Civil Rights Commission to study economic, educational and other phases of racial relations problems.

1949: Summary and Significance

The year 1949 was marked with several important milestones in the fight to abolish segregation and second class citizenship in the South.

It was in the field of higher education that the most significant gains were made.

Following a decision on March 30th by Federal Judge H. Church Ford, in the Lyman Johnson case, the summer found 29 Negroes studying in the graduate schools of the University of Kentucky.

On the last day of the Oklahoma legislature, June 11, a bill was passed permitting Negroes to attend tax supported colleges. An Amendment provided for the maintenance of segregation. As a result more than 50 Negroes were registered in the summer sessions at the University of Oklahoma and 2 at Oklahoma A. & M. Students tended to ignore the legislature's amendment. In the Fall Term 21 Negro students were enrolled at the University and 7 at A. & M.

The University of Arkansas medical school admitted its second Negro, Morris Jackson, and the University of Texas medical school, its first, Herman Barnett.

Among private institutions, West Virginia Wesleyan College, a Methodist school at Buckhannon took the lead when its governing board adopted a policy of admitting Negroes to its graduate courses.

At the same time this forward looking action was going on, a backward step was taken under the leadership of the Conference of Southern Governors. In June the Board of Control for Regional Education was formalized at Daytona, Fla., providing for regional segregated centers.

On June 26 the Board of Directors of the SCEF, meeting at Atlanta, adopted a resolution reaffirming "its unqualified opposition to segregation, and to the Southern regional education plan as an instrument for perpetuating segregation and inequality in education."

Regional High Schools Invalidated

The historical role of the regional plan, as a deterrent to the progressive trend indicated above, was revealed in Maryland. The state university was among the first in the South to admit Negroes to its graduate schools, but in the Fall of 1949 Maryland used participation in the regional school compact as an excuse to exclude 6 Negroes. They were offered scholarships in other states at regional centers. The courts will decide the issue.

Some indication of the legal fate of regional segregated, graduate centers was given in November when Federal Judge Armistead M. Dobie at Richmond, Va., held that regional high schools were unconstitutional because, among other reasons, they made it necessary for Negro students to travel greater distances than was required of white students.

In many counties Negro parents entered the courts to restrain school boards from discriminating in the education of their children. In the first month of the year, Virginia and the entire South was stunned by the action of Federal Judge Sterling Hutchinson in passing sentence upon the Gloucester County School Board for failure to equalize facilities for Negro and white children. This case was followed by many other suits in Virginia, Florida, Arkansas, Texas, Louisiana and Georgia, while cases were being readied in the Carolinas and other states.

Segregation of Mexican Children

Federal judges in California and Texas have held that the segregated schools for Mexican-American children, except in the first grade, are unconstitutional. In September the parents of some 300 Mexican-American children registered their children in Anglo schools at Del Rio, Texas, breaking a 19-year-old pattern of segregation. *La Verdad*, English-Spanish newspaper published at Corpus Christi, stated,

"For the most part the Anglo people have accepted the new situation with good grace . . . This confirms previous reports . . . that the vast majority of the Anglo population was prepared to accept the Mexican population."

Library Services

During the year, Chattanooga joined Richmond, Fort Worth, and Louisville in abandoning the policy of segregation in the main library.

The Franchise

Today phoney registration devices constitute the major obstacle to voting. This practice received a heavy blow on January 7 when Alabama's Boswell Amendment to the state constitution, adopted in 1946, was declared unconstitutional by a federal court. The Act had required that all potential voters must be able to read and interpret the constitution to the satisfaction of the registrars.

Despite all obstacles of registrars